

REMARKS

Claims 1-47 are pending in this application. Claims 1-6, 8-23 and 33-40 have been rejected. Claim 7 has been subjected to an objection. Claims 24-32 and 41-47 have been withdrawn from consideration by the Examiner.

Applicants acknowledge with appreciation the Examiner's indication that original claim 7 defines patentable subject matter. In this amendment, Applicants have amended claim 1 to include the limitations set forth in original claim 7. Thus, amended claim 1 is original claim 7 rewritten in independent form and further amended to clarify that the claimed balloon is for use in the human body. Claims 2-23 have been amended to depend, directly or indirectly, from amended claim 1. Claims 33-40 have been cancelled. New claims 48-94 are presented and depend, directly or indirectly, from amended claim 1.

New independent claim 95 is directed to a "stiffened dilating balloon catheter", in contrast to the "stiffened dilating balloon for use in the human body" of amended claim 1, and otherwise recites limitations corresponding to those in amended claim 1. Similarly, new claims 96-164 depend from new claim 95 and recite limitations corresponding to those in amended claims 2-23 and new claims 48-94.

New independent claims 165 and 166 are presented and include the recitation of a "means for connecting at least one of the stiffening members to another one of the stiffening members".

New method claims 167-173 are presented and are directed to methods of using a balloon with longitudinally discontinuous stiffening member in which at least one such stiffening member is connected to another by a filament.

The Examiner has rejected claims 1-2, 4, 8-9, 11-14, 16-20, 23, 33-35, and 37-40 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,102,904 to Vigil et al. (“the ‘904 Patent”). The Examiner asserts that the changes made to 35 U.S.C. §102(e) by the American Inventors Protection Act of 1999 (“AIPA”) do not apply to the examination of this application. Applicants respectfully traverse. Applicants submit that the changes implemented in the AIPA do apply. (See USPTO’s AIPA FAQ #D3 (posted 12/13/02) regarding application of the AIPA “to all patent applications no matter when filed.”) The present application was filed on July 24, 2001.

As presented and amended herein, claims 1-23, 48-164, and 167-173 effectively recite that “at least one of the stiffening members is connected to another one of the stiffening members by a filament” which is the exact language recited in original dependent claim 7 found allowable by the Examiner. Therefore, each is patentable over the ‘904 Patent at least for this reason. Since claims 165 and 166 recite “means for connecting at least one of the stiffening members to another one of the stiffening members” each is also patentable over the ‘904 Patent.

Claims 1 and 21 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,779,201 to Spahn (“the ‘201 Patent”). Applicants respectfully traverse. Claims 1-23, as amended, and 48-173 are patentable over the ‘201 Patent for at least the reasons expressed above. In addition, independent claims 1, 165, 167 and 170 make clear that the recited device is adapted for use in the human body and independent claims 95 and 166 are directed to a stiffened dilating balloon catheter. These limitations further distinguish the present invention from the “inflatable amusement device for treading on water” of Spahn.

Claims 3 and 22 have been rejected under 35 U.S.C. 103(a) as being unpatentable over the ‘904 Patent in view of U.S. Patent No. 5,242,397 to Barath et al. (“the ‘397 Patent”).

Applicants traverse these rejections. Claims 1-23, as amended, and 48-173 are patentable over the '904 Patent in view of the '397 Patent for at least the reasons set forth above.

Claims 10, 15 and 36 have been rejected under 35 U.S.C. 103(a) as being unpatentable over the '904 Patent in view of U.S. Patent No. 5,653,690 to Booth et al. ("the '690 Patent"). Applicants traverse these rejections. Claims 1-23, as amended, and 48-173 are patentable over the '904 Patent in view of the '690 Patent for at least the reasons set forth above.

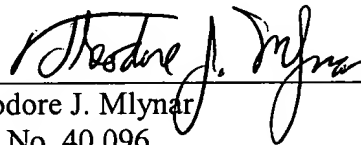
Claims 5 and 6 have been rejected for the first time under 35 U.S.C. §103(a) as being unpatentable over the '904 Patent. In the prior Official Action, claims 5 and 6 were merely subject to an objection. Applicants respectfully submit that the finality of the present official action is premature and request withdrawal of such finality.

Applicants also respectfully traverse this rejection. Claims 1-23, as amended, and 48-173 are patentable over the '904 Patent for at least the reasons set forth above.

Early and favorable consideration of the foregoing amendments and remarks is earnestly requested.

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Respectfully submitted,



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